

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

GREGORY MITCHELL,

Plaintiff(s)

vs.

JEFFREY WOLFE, Warden,

Defendant(s)

:
:
:
:
:
:
:
:
:
:
:

Case Number: 1:02cv764-SJD

District Judge Susan J. Dlott

ORDER

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Timothy S. Black filed on April 21, 2005(Doc. 17), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired May 10, 2005, hereby ADOPTS said Report and Recommendations.

IT IS ORDERED that the petition for writ of habeas corpus pursuant to 28 U.S.C. 2254 is hereby DENIED with prejudice.

A certificate of appealability shall not issue with respect to any of petitioner's grounds for relief, which have been addressed on the merits herein, because petitioner has failed to make a substantial showing of the denial of a constitutional right in those grounds for relief. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order adopting the Report and Recommendation would not be taken in "good faith," and, therefore, DENIES petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R.

App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge